

Original Title Page

RECEIVED

'88 MAR -4 P4:57

FEDERAL MARITIME

C. 10051

OFFICE OF THE

~~MEDITERRANEAN - FORCE MAJEURE - AGREEMENT~~

MEDITERRANEAN SPACE CHARTER AGREEMENT

FMC Agreement No. 10051

Space Charter Agreement

Date Last Published: October 12, 1986

TABLE OF CONTENTS

	<u>Article</u>	<u>Page</u>
Article 1	NAME OF AGREEMENT	2
Article 2	PURPOSE OF AGREEMENT	2
Article 3	PARTIES TO THE AGREEMENT	2
Article 4	GEOGRAPHIC SCOPE OF AGREEMENT	2
Article 5	AGREEMENT AUTHORITY	3
Article 6	OFFICIALS OF AGREEMENT AND DELEGATION OF AUTHORITY	9
Article 7	MEMBERSHIP, WITHDRAWAL, READMISSION AND EXPULSION	10
Article 8	VOTING	10
Article 9	DURATION AND TERMINATION OF AGREEMENT	10
Article 10	CARGO PREFERENCE LAWS	11
Article 11	RESOLUTION OF DISPUTES	11
Article 12	OPTIONAL ARRANGMENTS	11
APPENDIX A		

Article 1

NAME OF AGREEMENT

The full name of the Agreement is the
Mediterranean ~~Force-Majeure~~ Space Charter Agreement
(hereinafter "the Agreement").

Article 2

PURPOSE OF AGREEMENT

The purpose of the Agreement is to expedite
the movement of cargoes and to serve the interests of the
parties hereto and the shipping public.

Article 3

PARTIES TO THE AGREEMENT

The parties to this Agreement are listed in
Appendix A hereto, which is hereby incorporated by reference.

Article 4

GEOGRAPHIC SCOPE OF AGREEMENT

The Agreement covers the trade between and/or
via all ports on the Iberian Peninsula and/or in the
Mediterranean Sea and ports on the U.S. Atlantic and Gulf
Coasts, Eastport, Maine, to Brownsville, Texas, inclusive.
The geographic scope of the Agreement is hereinafter referred
to as "the trade."

Article 5

AGREEMENT AUTHORITY

5.1--Members' Rights And Obligations

Where, by virtue of causes beyond their control, i.e., force majeure, strike, mechanical breakdown, war, hostilities, risk of seizure, meteorological conditions, or acts of God, any of the signatories are unable to make a regularly scheduled port or ports of call or to load all or part of the cargo they have booked at such a port or ports, they may invoke the rights and assume the obligations in this Agreement.

5.2--General Carriage Conditions

In the event of an operative cause under Article 5.1, any signatory so affected (a "distressed carrier") may offer to any other signatory (an "underlying carrier") containerized cargo for transportation in the trade on such terms and conditions as may be mutually agreed and subject to the provisions of this Agreement. -- Provided, however, that each signatory shall afford to each other signatory the most favorable terms and conditions that it affords to any other signatory. -- It is expressly warranted, however, that no signatory shall invoke this Agreement to book or otherwise to carry, in respect to any particular

~~eastbound or westbound voyage, a greater number of
containers, as measured in terms of twenty-foot equivalent
units ("TEUS"), than the full safe capacity of its distressed
vessel.~~

~~5.3--Transportation Liability~~

~~Cargo subject to this Agreement shall be self-
consigned by the distressed carrier and transported by the
underlying carrier on a slot charter contract basis.
Notwithstanding the provisions of this Agreement, however,
the distressed carrier shall, in respect to the shipper,
employ its regular Bill of Lading and strictly adhere to its
published tariffs and any applicable Conference or other Rate
Agreement as may be in force.--It is further understood that
the distressed carrier shall be liable to the shipper, and
shall receive and process claims for cargo loss and damage,
in the same manner and to the same extent and degree as if
the cargo had moved on its own vessel.~~

~~An underlying carrier shall be liable to
indemnify a distressed carrier for reasonable payments the
latter must make to cargo owners, in connection with loss or
damage to property caused by the underlying carrier subject
to the terms and conditions of the contract of affreightment
between the underlying carrier and the distressed carrier.~~

~~The distressed carrier shall indemnify the underlying carrier for any fines, penalties, duties or other expense imposed on the underlying carrier for manifest errors, misdescriptions, shortages, overages or any other documentation errors due to incorrect information furnished by the distressed carrier on his shippers for which the underlying carrier may be held liable.~~

~~Furthermore the distressed carrier shall indemnify and hold harmless the underlying carrier for damage to property and/or deaths, injuries or illnesses resulting from misdescription of goods, improper stowage of goods within the containers, or defect in construction of the containers tendered by the distressed carrier to the underlying carrier.~~

~~The distressed carrier must take delivery of all containers said to contain perishable cargoes moving in dry or temperature controlled vans within twenty-four (24) hours after said containers have been made available for pick-up from the underlying carrier. The underlying carrier shall not be held liable for damage to the cargo if the distressed carriers fails to take delivery of the cargo within the twenty-four (24) hour time requirement as prescribed.~~

Article 5

AGREEMENT AUTHORITY

5.1 Definition of Terms

As used herein, a Party who charters vessel capacity from another Party is the "charterer", a Party whose vessel capacity is chartered by another Party is the "underlying carrier", and the shipper who tenders the cargo to the charterer is the "underlying shipper."

5.2 Parties' Rights and Obligations

(a) Any Party may advise any other Party at any time of the need for, or the availability of, vessel capacity for chartering purposes. Except as provided in Subsection 5.2(b) hereof, a Party may charter space or slots under such Party's operational control to another Party on any feeder, relay or other vessel utilized for the transportation of cargo within the scope of the Agreement. Any Party may agree to such a charter arrangement in conjunction with discussions regarding the deployment or redeployment of such vessel.

(b) Space/slot chartering shall be strictly voluntary. No Party shall be obligated to charter space or slots to or from any other Party except as any Parties may, from time to time, mutually agree.

(c) Cargo shipments made pursuant to this Agreement shall be consigned to the charterer and transported by the underlying carrier on a contract basis.

(d) Compensation for any shipments under space/slot charter arrangements between or among Parties shall be as the parties to such arrangements may agree.

(e) Nothing herein shall be construed as a demise or partial demise of any vessel of any Party. At all times during any voyage on which cargo, containers or other equipment are carried pursuant to the terms of a space/slot charter arrangement entered into hereunder, the Master, his delegates, the officers and crew, shall be and remain the employees and agents of the underlying carrier only and shall not be or be deemed to be the employees or agents of the charterer.

(f) The charterer and underlying carrier shall make such ancillary terminal, operating, administrative and other arrangements as may be needed to conduct and perform space/slot chartering pursuant hereto, and shall exchange such booking data, shipping documents, tariff information and other material as they may require for that purpose.

(g) An underlying carrier will ensure that its personnel will, in accordance with any instructions of

the charterer, maintain, repair, and inspect the charterer's equipment.

5.3 Liabilities

(a) Charterer. The charterer shall, with respect to the underlying shipper, employ its regular bill of lading and strictly adhere to applicable published tariffs. The charterer shall be liable to the underlying shipper and shall receive and process claims for cargo loss and damage in the same manner and to the same extent and degree as if the cargo had been transported on the charterer's own vessel. The charterer shall indemnify and hold harmless the underlying carrier for damage to property, death, injury or illness resulting from misdescription of goods, improper stowage of goods within containers, or defect in the construction of containers tendered by the charterer to the underlying carrier. The charterer shall also indemnify the underlying carrier for any fines, penalties, duties or other expenses imposed on the latter due to errors in cargo manifests or any other documents, whether furnished by the charterer or the underlying shipper, if the charterer is liable for such errors.

(b) Underlying Carrier. Subject to the terms and conditions of the space/slot charter arrangement, the

underlying carrier shall indemnify the charterer, as provided in the Carriage of Goods by Sea Act, 46 U.S.C §§1301-1315, for liability to the underlying shipper in connection with any loss or damage to property caused by the underlying carrier.

(c) Force Majeure. Except as may be otherwise specifically provided in a space/slot charter arrangement, the obligations of the Parties to an arrangement shall be excused to the extent that the existence and continuance of conditions beyond the Parties' control render either the underlying carrier or the charterer, or both, unable to carry out their obligations. Such conditions include but are not limited to: war; civil commotion; invasion; rebellion; hostilities; strikes, labor disputes, sabotage or other work stoppages; unusually severe weather; regulations; or order of governmental authorities; legal intervention; acts of God; or inability to obtain materials or services. A Party asserting the existence of such conditions as an excuse of non-performance shall promptly give written notice of such conditions to all other Parties to the charter arrangement.

(d) Perishable Cargoes. Unless otherwise specifically provided in a space/slot charter arrangement,

the underlying carrier shall not be held liable for damage to the cargo if the charterer fails to take delivery of all containers said to contain perishable cargoes moving in dry or temperature-controlled equipment within twenty-four (24) hours after said containers have been made available for pickup from the underlying carrier.

Article 6

OFFICIALS OF AGREEMENT
AND DELEGATION OF AUTHORITY

The Parties may, but need not, appoint an Agreement Coordinator, who shall have the duty and the authority to ensure adherence to the terms and the conditions of the Agreement. All expenses arising from the maintenance and administration of this Agreement shall be prorated among the signatories in equal shares.

Any amendment to this Agreement may be executed by its Coordinator or Counsel for and on behalf of, and at the direction of, the signatories.

Article 7

MEMBERSHIP, WITHDRAWAL,
READMISSION AND EXPULSION

Any common carrier by water providing containerized shipping services and regularly scheduled sailings in the trade may become party to this Agreement on

equal terms and conditions. Any ~~member~~ Party may withdraw from this Agreement without penalty by giving the Agreement Coordinator at least 60 days' written notice of its intention to withdraw. If the parties have not appointed an Agreement Coordinator, the 60 days' written notice shall be given to each of the other Parties. Any ~~member~~ Party may be expelled from this Agreement, by a unanimous less one vote of all ~~members~~ Parties, for failure to abide by the terms and conditions of this Agreement.

Article 8

VOTING

Except as otherwise agreed, all decisions implementing the Agreement shall be by unanimous vote of the Parties. Any amendment to this Agreement shall be by unanimous vote of the Parties.

Article 9

DURATION AND TERMINATION OF AGREEMENT

The effective date of this Agreement shall be the date it becomes effective under the Shipping Act of 1984. The Agreement shall remain in effect unless terminated by unanimous vote of the Parties.

Article 10

EXCLUSION OF CARGO

CARGO PREFERENCE LAWS

~~Cargo required by law~~ Laws and government
regulations requiring shipments to be carried in whole or in
part by a national flag line shall be ~~excluded from this~~
~~Agreement~~ observed unless appropriate waivers are obtained.

Article 11

RESOLUTION OF DISPUTES

Except as otherwise specifically provided in a
space/slot charter arrangement, any dispute or claim arising
thereunder which is not amicably settled by the parties to
the arrangement shall be settled by arbitration.

Article 12

OPTIONAL ARRANGEMENTS

The liability and disputes provisions of
Articles 5.3 and 10, and the provisions of subparagraphs (e)
and (g) of Article 5.2 hereof shall apply except as may be
otherwise mutually agreed by a charterer and an underlying
carrier with respect to any space/slot chartering
arrangements between them.

MEDITERRANEAN SPACE
CHARTER AGREEMENT
FMC Agreement No. 10051
Original Appendix A

APPENDIX A

1. COMPANIA TRASATLANTICA ESPANOLA (SPANISH LINE)
2. COSTA CONTAINER LINE
3. FARRELL LINES, INC.
4. ITALIA DI NAVIGAZIONE, S.p.A.
5. JUGOLINIJA
6. LYKES BROS. STEAMSHIP CO., INC.
7. A.P. MOLLER MAERSK LINE
8. NEDLLOYD LIJNEN, B.V.
9. SEA-LAND SERVICE, INC.
10. TRANS FREIGHT LINES
11. ZIM ISRAEL NAVIGATION CO., INC.